

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE care of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following By-law:

CITY OF MOUNT GAMBIER

By-law No 3 – Roads By-law 2025

A By-law for the management, control and regulation of activities on roads and other land in the Council's area.

and do certify that in my opinion:

CITY OF MOUNT GAMBIER

has the power to make the By-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 239, 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(e), 246(3)(f) and 246(3)(h)(iii); and
Local Government (General) Regulations 2013: regulation 28.*

and the By-law is not in conflict with the *Local Government Act 1999*.

DATED the 9 day of June 2025



Cimon Burke, Legal Practitioner

**CITY OF MOUNT GAMBIER****ROADS BY-LAW 2025****By-law No. 3 of 2025**

A By-law for the management, control and regulation of activities on roads and other land in the Council's area.

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PART 1– PRELIMINARY

1. Title

This By-law may be cited as the *Roads By-law 2025* and is By-law No. 3 of the City of Mount Gambier.

2. Authorising Law

This By-law is made under sections 239 and 246 of the *Local Government Act 1999* and regulation 28 of the *Local Government (General) Regulations 2013*.

3. Purpose

The objectives of this By-law are to manage, control and regulate certain uses of roads in the Council area:

- 3.1 to protect the convenience, comfort and safety of road users and members of the public;
- 3.2 to prevent damage to buildings and structures on roads;
- 3.3 to prevent certain nuisances occurring on roads; and
- 3.4 for the good rule and government of the Council area.

4. Commencement, Revocation and Expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹:

*By-law No. 3 – Roads 2018.*²

- 4.2 This By-law will expire on 1 January 2033.²

Note-

- 1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2025*.
- 5.2 Subject to subclause 5.3, this By-law applies throughout the Council's area.
- 5.3 Subclause 7.3.2 of this By-law applies throughout the Council's area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal** includes birds, insects and poultry but does not include a dog;
- 6.3 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.4 **Council** means City of Mount Gambier;
- 6.5 **effective control** means a person exercising effective control of an animal either:
 - 6.5.1 by means of a physical restraint; or
 - 6.5.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.6 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.7 **moveable sign** has the same meaning as in the Act;
- 6.8 **road** has the same meaning as in the Act being, a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes:
 - 6.8.1 a bridge, viaduct or subway; or
 - 6.8.2 an alley, laneway or walkway;
- 6.9 **vehicle** has the same meaning as in the *Road Traffic Act 1961*; and
- 6.10 **waste container** means a container for the disposal of domestic waste, recyclables or green organics that is used to facilitate the kerbside collection of waste from premises by the Council or its agents or contractors.

Note-

Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

PART 2 – USE OF ROADS

7. Activities Requiring Permission

A person must not engage in or undertake any of the following activities on a road (or where otherwise indicated, on other land) without the permission of the Council.

7.1 Advertising

Display or cause to be displayed on a road or on a structure on a road, any poster, advertising or sign for the purpose of advertising goods or services or for any other purpose, other than a moveable sign that is displayed in accordance with the Council's

Moveable Signs By-law 2025.

Note-

Moveable signs on roads are regulated by sections 226 and 227 of the Act and the Council's *Moveable Signs By-law 2025*.

Section 226(2a) of the Act prohibits the display of certain electoral advertising posters displayed in connection with a Local Government election.

Section 226A(1)) of the Act prohibits the display of a designated electoral advertising poster on roads and road-related areas (including any structure, fixture or vegetation thereon).

7.2 Amplification

Use an amplifier or other device whether mechanical or electrical for the purpose of amplifying or magnifying sound, including for the broadcasting of announcements or advertisements.

7.3 Animals

7.3.1 Subject to this subclause 7.3, lead, herd, exercise or cause or allow an animal to stray onto or move over any road unless the animal is under effective control.

7.3.2 Cause or allow an animal to stray onto, move over, or graze on a road except where the Council has set aside a track or other area for use by or in connection with an animal of that kind as indicated by signage on or in the vicinity of the road.

7.3.3 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

7.4 Obstructions

Erect, install, place or maintain or cause to be erected, installed, placed or maintained any structure, object or material of any kind so as to obstruct a road, footway, water-channel, or watercourse in a road.

7.5 Preaching and Canvassing

7.5.1 Preach, harangue, or canvass for religious or charitable purposes; or

7.5.2 Convey any religious or other message to any bystander, passer-by or other person.

7.6 Public Exhibitions and Displays

7.6.1 Sing, busk, play a recording or use a music instrument, or perform similar activities.

7.6.2 Conduct, cause or hold a concert, festival, show, display, public gathering, circus, performance or a similar activity.

7.6.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.

7.6.4 Cause any public exhibition or displays.

7.7 Shared Transport Devices

Subject to the *Road Traffic Act 1961*:

- 7.7.1 operate a share transport device scheme;
- 7.7.2 leave a share transport device on a road other than in accordance with conditions determined by the Council (including as may be set out in a policy from time to time) that are published on the Council's website (if any);
- 7.7.3 For the purposes of this subclause 7.7:
 - 7.7.3.1 **share transport device** means a bike, scooter or similar that is available for hire (for fee or otherwise) in the Council's area by members of the public in connection with a share transport device scheme, including through the use of a special purpose smartphone application; and
 - 7.7.3.2 **share transport device** scheme means a scheme operated in the Council's area which involves share bikes, scooters (dockless or otherwise) being made available for hire by any person for a fee or otherwise.

7.8 Soliciting

Ask for or receive or do anything to indicate a desire for a donation of money or any other thing.

7.9 Repairs to Vehicles

Repair, wash, paint, panel beat or perform other work of any nature on or to any vehicle, except for running repairs in the case of a vehicle breakdown.

7.10 Rubbish Bins

Deposit in any Council bin on a road any rubbish:

- 7.10.1 emanating from a domestic, commercial or trade source; or
- 7.10.2 that is not rubbish of the type permitted to be placed in the bin, as indicated on signs on the bin or in its vicinity.

7.11 Waste Containers

Place, cause or allow to be placed, waste containers on a road or on any other land to facilitate the collection, by the Council (including its agents or contractors), of waste generated on neighbouring or nearby premises unless the waste containers are placed on the road:

- 7.11.1 on the day nominated by the Council for the collection of waste from the relevant premises or after 4pm the preceding day (and not before these times);

- 7.11.2 in a position that is adjacent to the kerb (not on the carriageway) so that the front of the bin faces the road, or as may otherwise be directed by the Council; and
- 7.11.3 for a period that does not extend beyond 11:59pm on the day after the date that waste has been collected from the waste container.

Note-

To avoid doubt clause 7.11.3 operates such that a waste container that is placed on a road for collection must be removed from the road before 11:59pm on the day following the date of collection.

PART 3 – ENFORCEMENT**8. Directions**

A person on a road who, in the reasonable opinion of an authorised person is committing or has committed a breach of this By-law, must immediately comply with an order of the authorised person made pursuant to section 262 of the Act, which may include an order to leave that part of the road.

9. Orders

If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

Note-

Section 262(1) of the Act states:

*If a person (the **offender**) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*

- a) if the conduct is still continuing – to stop the conduct; and*
- b) whether or not the conduct is still continuing – to take specified action to remedy the contravention*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out.

For example, an authorised person may order a person to:

- cease busking on a road;
- remove an object or structure blocking a footpath; or
- remove advertising displayed on a structure on a road.

10. Removal of Animals and Objects

- 10.1 The Council (or its delegate) may, pursuant to section 234 of the Act, remove an animal or object that is on a road in breach of a By-law if the Council (or its delegate) reasonably believes that no person is in charge of the animal or object.
- 10.2 The Council may seek to recover from the owner of an object removed under subclause 10.1 the costs it incurs in removing that object.

PART 4 – MISCELLANEOUS

11. Exemptions

- 11.1 The restrictions in this By-law do not apply to any emergency worker, Police Officer, authorised officer, Council Officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council Officer.
- 11.2 The Council may otherwise, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 11.3 An exemption:
 - 11.3.1 may be granted or refused at the discretion of the Council;
 - 11.3.2 may operate indefinitely or for a period specified in the instrument of exemption; and
 - 11.3.3 is subject to any conditions specified in the instrument of exemption.
- 11.4 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 11.5 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

This By-law was duly made and passed at a meeting of the City of Mount Gambier held on **17 June 2025** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



SARAH PHILPOTT
Chief Executive Officer